

Reclaiming the Commons*

Nate Ela[†]

“urban agriculture... can ultimately serve as a counter-hegemonic tool to reclaim ‘the commons’ from the enclosure of capitalist commodification.”

- Nathan McClintock (2011)

Some twenty miles southwest of London, high on St. George’s Hill in Surrey, sits a private country club. Although some of the players at this self-described “golfing gem” might not realize it, the land under their “rumpled fairways and cleverly conceived greens” was once the site of a historic occupation.¹ In the spring of 1649, a radical reformer named Gerrard Winstanley and a group of his followers walked onto what was then common land, set up camp, and started planting vegetables.

Winstanley and his followers, who would become known as the Diggers, were protesting the enclosure of common lands. Peasants had long held customary rights to collect wood and graze livestock on such lands. But for decades, landowners had moved to enclose the commons,

* This is the first chapter from Nate Ela, “The Land Fix: Experiments with Property, Land, and Welfare in Chicago, 1895-2017” Unpublished Doctoral Dissertation, University of Wisconsin-Madison (2018). A previous version of the paper, titled “Reclaiming the Commons, Activating Space: A Dual Genealogy,” was presented at the 2016 annual meeting of the Society for the Study of Social Problems, receiving an honorable mention from the SSSP Social Problems Theory Division for its 2016 graduate student paper award.

[†] Nate Ela, a visiting scholar at the American Bar Foundation, is lecturing at Northwestern University Law School in 2019. He has a Ph.D. in Sociology from the University of Wisconsin-Madison and a J.D. from Harvard. His work on property, urban social policy, and human rights has appeared or is forthcoming in *Law & Social Inquiry*, *Social Science History*, and the *Fordham Urban Law Journal*.

exclude peasants, and use the land to graze flocks of sheep and produce wool for the textile industry.

As Winstanley saw it, enclosure was responsible for a wave of unemployment and poverty then sweeping across Britain. Customary rights generally didn't permit peasants to till up the soil and plant crops on common lands, but that was just what the Diggers did. Their experiment on St. George's Hill didn't last long. They were evicted by the end of the summer. Yet their occupation, and the manifestos they published, have resonated in people's memories and imaginations for centuries. What if the commons could be reclaimed? And what if collective gardening offers a way to do that—to help support the poor and unemployed, and bring about new ways to allocate resources?

More than three and a half centuries since the Diggers planted vegetables on St. George's Hill, people still envision gardening as a way to reclaim the commons. Scholars and community organizers looking for alternative ways to govern cities have grown interested in the commons. And they have come to see community gardens and urban farms as paradigmatic cases of the urban commons. Through shared land use and food production, these sites serve as proving grounds for re-working the laws that distribute access to urban resources.

Progressive scholars have led the way. Historian Peter Linebaugh recently traced a narrative of commoning as a social practice grounded in rights declared in the Magna Carta and the less famous Charter of the Forest. This practice remains with us even today, Linebaugh argues, citing urban gardens as among the “active movements of human commoning and worldwide demands to share wealth and safeguard common resources.”² Urban geographers like Nathan McClintock, whose quote opens this chapter, have picked up the thread. As McClintock

sees it, urban agriculture “produces new commons.”³ And in his book *Radical Cities*, geographer David Harvey agrees that community gardens exemplify “a social practice of commoning.”⁴

Scholars across other disciplines have also come to see urban gardens as commons. Legal scholars Sheila Foster and Christian Iaione, in developing a case for governing cities as a commons, take gardens as prefigurative sites.⁵ Public health experts hail urban gardens as “restorative commons.”⁶ Urban ecologists describe gardens as “green commons” that promote urban resilience.⁷

The scholars aren’t alone. In Chicago, I have heard similar views from growers reflecting on their own projects to change how people use land, and the rules that govern that use. At one event, Erika Allen, the director of one of Chicago’s largest urban farms and a commissioner on the board of its park district, described herself as “very interested in the commons.” This form of land tenure is attractive because, as she sees it, it means “nobody can own the land, but you can have long-term use of the land.”⁸

At another community meeting, I met Ken Dunn, who studied philosophy as a graduate student before starting what is now one of Chicago’s oldest urban farms. Dunn said he had once created a community garden on a vacant lot that had been taken over by drug dealers. One evening, he brought over a truckload of compost, dumped it on the lot, and helped neighbors plant crops. Legally, this was probably a trespass on private property. But Dunn had developed a defense. He cited the political theorist John Locke for the proposition that private land, when left unused, reverts to the commons.

What draws scholars and growers to understand urban farms and gardens as a way to reclaim the commons? The impulse is at once both puzzling and unsurprising. On the one hand, these are somewhat odd places to see as commons, since they don’t fit all that well with the

leading contemporary theory of commons governance. Over the course of four decades, Nobel laureate Elinor Ostrom and her collaborators built a theory of how and why people are able to sustainably and successfully govern common resources.⁹ Ostrom's theory might seem to be an obvious place to look to explain how urban farms and gardens reclaim the commons.

But as it turns out, it is hard to fit urban land with Ostrom's theory. According to Ostrom, the sorts of things that are most amenable to commons governance are common pool resources. The classic examples are fisheries, irrigation systems, forests, and grazing lands. These have two important features. First, they are rivalrous—one person's use of a fish or a patch of grass, for example, means another can't use it. Second, they have boundaries that are difficult to police, making it hard to exclude potential users. Imagine, for instance, trying to build a fence around a fishery.

Urban land is different. A vacant lot may be rivalrous—a gardener's plot may conflict with a drug dealer's business—but compared to the classic common pool resources it is relatively easy to exclude outsiders. You can put up a fence. Or you can call the police and report trespassing. Having recognized that vacant lots and urban gardens don't map very well onto Ostrom's theory, some scholars have attempted a work-around. Legal scholars Sheila Foster and Christian Iaione, for example, have shifted scale—from thinking of particular vacant lots or community gardens as commons, to proposing how the city itself might be governed as a commons.¹⁰

This drive to find a new model for governing urban resources makes interest in the commons less surprising. Thanks in large part to Ostrom and her colleagues, the commons has become seen as a credible alternative to the state and the market for governing natural resources. It offers a “third way” approach, which arrives in the form of a long-lost system worthy of

rediscovery and revival. This is roughly Linebaugh's instinct in tracing a line between the Charter of the Forest and today's urban gardens, and that of geographer Efrat Eizenberg, who hails gardens as "live relics of the ideal of the commons."¹¹

Of course, no one actually proposes that we try to revive customary rights to graze flocks on common pastures, or to gather fallen wood and food from forests. Instead, leading proponents of the commons such as David Bollier suggest that a turn to legal history offers a new way of imagining legal reforms.¹² As people's explicit negotiations settle into habits and eventually customary rights, Bollier suggests that we might see a sort of "vernacular law" that is from time to time recognized by the state.¹³ Recognizing vernacular law as it exists in contemporary cities, and aspiring to have it recognized by municipal government, offers a way of reclaiming the commons as something both new and with very deep roots. Long-lost customary rights serve as analogies, jumping-off points for people advocating new ways of governing resources.

This conceptual and rhetorical practice takes various forms. Landscape scholars Laura Lawson and Abbilyn Miller, for example, have proposed that "equating urban gardens with the 'commons' concept" could support "a balanced citizen-land model" that reworks how local governments regulate land tenure.¹⁴ Historian Brian Donahue aims to reclaim the commons in order to reimagine how suburban land might be owned and used in common.¹⁵ And for advocates of the urban commons, gardens offer a more tangible and grounded site for institutional innovation than public space generally, or the city as a whole.¹⁶ By drawing an analogy between the common lands of centuries ago and contemporary legal techniques—such as land trusts, easements, and revocable licenses to use public land—they aspire to create more equitable and sustainable ways to govern land and its resources.

This chapter places contemporary strategies and struggles such as these in historical context. It does so by tracing how people from the Diggers through late-nineteenth century reformers envisioned and worked to reclaim the commons, often through projects to give the poor and unemployed access to land. What emerges is not just a story of reclaiming the commons, but a story of experiments with social welfare provision, and the possibilities for redistributing land and property. Even as some social thinkers and reformers sought to reclaim the commons by reallocating rights to use land, others suggested that the commons might better be reclaimed by taxing the value of land and using revenues to support social programs.

Tracing the development of ideas and projects to reclaim the commons, then, reveals a narrative that is not so much about struggles to revive a long-lost system of customary rights, or bringing about rules to govern common pool resources. Instead, this is a story about envisioning and trying to create new institutions for redistributing land and property. When we ask how contemporary urban agriculture might descend in some way from the Diggers' experiment on St. George's Hill, we discover that the common thread involves both reclaiming the commons and experiments with redistribution and social welfare provision.

This offers a new way of thinking about both urban farms and gardens, and about social policy. What if we took a break from seeing urban agriculture as an instance of the commons, and instead seek to understand it as one instance of a type of redistributive social policy that we are not accustomed to seeing? The chapter closes by proposing a new set of concepts and questions that could help account for the periodic reemergence of urban farms and gardens as a form of social provision.

This, then, is where the story is going. To get there, we should first return to St. George's Hill.

From the Diggers' Provocation to Locke's Proviso

When Gerald Winstanley and his followers dug up the commons on St. George's Hill, their project to reclaim the commons was both an experiment in helping the poor and unemployed sustain themselves, and an attempt at legal reform. To appreciate the radical nature of their project, one must understand it in its social and legal context.

By the time the Diggers took to St. George's Hill, both the enclosure movement and popular resistance to it were nothing new. Thomas More, in 1516, attributed the increasing enclosure of common fields to the rise in price for wool. As nobles created pastures for their sheep, they displaced entire villages, leaving the dispossessed to roam as vagabonds, looking for work or for charity.¹⁷ By the early 1600s, the pace of enclosure had slowed, but the English countryside remained the setting for tensions over rights of the rural poor to use resources.

Peasants resisted enclosure by reasserting the customary rights that for centuries had supported their livelihoods. The content of these rights, being entrenched in local custom rather than common law, varied from place to place.¹⁸ But often they included rights to pasture livestock or collect wood or turf as fuel from common or waste lands; rights which, taken together, supported the subsistence of the poor and made them less subject to the discipline of paid employment.¹⁹ Just as these customs were local, resistance to enclosure also took the form of local acts. This might mean knocking down a gate or levelling a hedgerow.²⁰ Once in a while, it led to riots. During a 1607 revolt in the Midlands, for example, thousands of peasants joined together to break down enclosures, and were violently repressed by armed gentry.²¹

Winstanley and his followers devised a different strategy. Instead of reasserting existing customary rights, they sought to claim a new, universal natural right. This, they declared, would let the poor and unemployed collectively cultivate food on common lands. This broke from law and tradition. Local customs generally did not allow peasants to grow food on common or waste lands.²² Under the open field system, peasants generally grew food in individual plots, distinct from common lands.

Winstanley and his followers explained how the commons ought to be reclaimed in a manifesto, *The True Levellers Standard Advanced*.²³ Their reasoning was rooted in natural law: “In the beginning of Time, the great Creator Reason, made the Earth to be a Common Treasury.”²⁴ Working from this premise, the Diggers laid out a theory of the commons, enclosure, and how the commons might be reclaimed. The “Creator is mightily dishonoured,” they declared, when the earth that he made as a “Common Store-house for all, is bought and sold.”²⁵ Anyone who buys or sells land “have got it either by Oppression, or Murther, or Theft.”²⁶ Treating land as a commodity, then, violated two of the Ten Commandments.²⁷

Growing food on the commons, as the Diggers saw it, would free the poor. “England is not a Free People,” they wrote, “till the Poor that have no Land, have a free allowance to dig and labour the Commons.”²⁸ Their protest was not meant to be local. They hoped it would spread from St. George’s Hill to “all the Commons and waste Ground in England, and in the whole World.” In the end, all the land in the world would be “taken in by the People in righteousness, not owning any Propriety.”²⁹

Free use of land would revolutionize how people worked. “None shall say, This is my Land, work for me, and I’ll give you Wages,” the Diggers wrote.³⁰ A voice “heard in a Trance” ordered that laborers and the poor

shall not dare to work for Hire, for any Landlord, or for any that is lifted up above others.... He that works for another, either for Wages, or to pay him Rent, works unrighteously, and still lifts up the Curse.³¹

This curse could be undone. People simply had to work together, eat together, “mak[e] the Earth a Common Treasury,” and join hands with Christ to lift creation from bondage.³² The call to reclaim the commons was, in effect, a call from above for a general strike.

It was also a call for a radically different system of supporting the poor. Since 1601, with the passage of what came to be known as the Old Poor Law, local parishes had been given the responsibility of tending to the needy. This meant distinguishing the able poor (who were able to work) and unable poor (who couldn't) from vagrants (who were able but refused to work), and dealing with them accordingly. The able and unable poor were either given outdoor relief or put to work in poorhouses. Vagrants were subjected to corporal punishment, to entice them to work.

The Old Poor Law system marked an advance, in that it supported the poor through a system of local taxation, rather than charity. Each parish levied rates on local landowners and tenants, and revenues were used to support outdoor relief and poorhouses. This of course led landowners and the local elites to be interested in cutting rates, which was often managed by removing the poor who had no connection to a local parish to another parish.

The Diggers envisioned something completely different. Rather than tax land and use the revenues to fund parish-level relief for the poor, common and waste lands would be made freely available for the poor and unemployed. The result would be a world rid not only of landowners and laborers, but also of poverty. Thanks to the opening of common lands, the poor would gain a “comfortable livelihood,” and come to live “as Comfortably as the Landlords that live in their Inclosures.”³³

Despite the brevity of the Diggers' occupation of St. George's Hill, it and their manifestos together offered a new vision of what reclaiming the commons could mean, and how

it might be achieved. Rather than knocking down hedgerows to reassert customary rights as they were before, the Diggers proposed a new vision. Giving the poor long-term access to the commons in order to grow food, and not simply graze livestock or gather wood, could reshape how people earned a living, related to property and its owners, and made resources available to the needy.

At the time the Diggers occupied St. George's Hill, John Locke was a sixteen-year-old student at an elite school in London. We don't know directly what Locke might have heard or thought about the Diggers, but there is some evidence that, at least later, he knew of Winstanley's writings.³⁴ More generally, however, Locke's thinking developed in the shadow of the same radical shifts to England's legal and physical landscapes—the conversion of common lands to private property—that the Diggers had resisted.

Locke wrote his *Second Treatise on Government* amidst this great transformation.³⁵ In his chapter on property, Locke imagines the original relation of people to the earth in a manner similar to the Diggers. "God," Locke wrote, "gave the world to men in common."³⁶ He also saw that enclosure could lead to social problems. In what has become known as the "Lockean Proviso,"³⁷ he identified the central problem of converting the commons into private property:

Nor was this appropriation of any parcel of land, by improving it, any prejudice to any other man, since there was still enough, and as good left; and more than the yet unprovided could use.³⁸

At some point, Locke realized, there would not be enough remaining—people left without property would inevitably be prejudiced.

This posed a problem. Allowing people to appropriate the commons had inevitable distributional effects. It made some people better off, and would eventually leave others without

land they could use. Locke stated this problem clearly, but didn't propose much in the way of a solution. The closest he got was to write that surplus property reverts to the commons:

As much as any one can make use of to any advantage of life before it spoils, so much he may by his Labour fix a property in: whatever is beyond this, is more than his share, and belongs to others. Nothing was made by God for man to spoil or destroy.³⁹

This was essentially the flip side of Locke's labor theory of property. If, as he saw it, something becomes your property by virtue of you having taken it from nature and having mixed your labor with it,⁴⁰ then the reverse could also hold. If you have more than you can use, and you leave it to spoil, then you lose your property claim. It belongs to others.

This way of thinking lingers today. Although Ken Dunn didn't cite God as the ultimate authority when, 425 years later, he justified turning a vacant lot into a community garden without the owner's consent, he did turn to Locke to justify taking over and making use of someone else's property. If you don't use a vacant lot, and leave it abandoned, it is no longer yours: it reverts to the commons, and may be used by the community.

Two Fixes

Locke's identification of the dilemma posed by converting the commons into private property didn't stop the transformation that was underway. Nor did his imagination that surplus could revert to the commons solve the problem for people who were "yet unprovided." A century later, Thomas Jefferson and Thomas Paine each imagined a solution to the problem posed by Locke. Aspects of their proposed solutions have echoed and been reworked in later visions and projects.⁴¹

Jefferson was inspired to reflect on the social problems of property, and envision possible solutions, during a visit to the chateau of Louis XVI, near the French village of Fontainebleau.⁴² While walking among lands reserved for the King's hunt, Jefferson met a poor woman, a day laborer who said she often couldn't find work and had no bread to eat. Jefferson found the juxtaposition of poverty and unused land deeply unsettling. That evening, he wrote to James Madison. "Whenever there are in any country uncultivated lands and unemployed poor," he observed, "it is clear that the laws of property have been so far extended as to violate natural right." Jefferson didn't cite God as the giver of the earth, but it was implicit in his reasoning based on natural rights. He restated the same problem that Locke had identified, but then went a step further. He envisioned a possible solution:

The earth is given as a common stock for man to labor and live on. If for the encouragement of industry we allow it to be appropriated, we must take care that other employment be provided to those excluded from the appropriation. If we do not, the fundamental right to labor the earth returns to the unemployed.

What would it mean to have this right revert to the unemployed? Jefferson didn't spell this out in his letter to Madison, but he did make clear that the problem had come to a head in France. In the United States, by contrast, with its abundant and ostensibly unused land available for the taking by settlers, Jefferson believed it was "too soon yet" to implement one possible solution—"to say that every man who cannot find employment, but who can find uncultivated land, shall be at liberty to cultivate it, paying a moderate rent."

Jefferson imagined a sort of "land fix" to the problem that Locke had foreseen. When landless people were unemployed, and "we"—landowners—do not provide other employment, the fundamental right to labor the earth might permit the unemployed poor to rent unused land at moderate rates.

A dozen years later, Thomas Paine, in *Agrarian Justice*, proposed an alternative solution.⁴³ Like his predecessors, Paine understood land to be “the free gift of the Creator in common to the human race.”⁴⁴ But for the invention of agriculture, land could have continued to be common property. “When cultivation began the idea of landed property began with it,” Paine reasoned, “from the impossibility of separating the improvement made by cultivation from the earth itself.”⁴⁵ Paine saw cultivation as both blessing and curse: it multiplies land’s value by an order of magnitude, but creates a “landed monopoly.”

Paine advocated for the right of people dispossessed by cultivation to benefit from a share of the natural property that they were due. Since cultivators only have property in the value of the improvement, not the land itself, he concluded that “every proprietor, therefore, of cultivated land, owes to the community a *groundrent*.”⁴⁶ Paine proposed that the revenues from this levy on inherited land should flow into a national fund. The fund would send a one-time payment to all twenty-one year olds, and annual payments to anyone who lived past fifty. By contrast with people like Winstanley and Jefferson, who were most concerned with the poor and unemployed, Paine envisioned a plan for redistribution that would be universal.

The plan, Paine argued, would have several benefits. First, it could remedy the injustice created by the monopoly of land without “diminishing or deranging” the property of present possessors, who were not themselves to blame.⁴⁷ Second, benefits paid to the young would allow them to “buy a cow, and implements to cultivate a few acres of land.”⁴⁸ This would keep them from being burdens to society, and could improve sales of “the national domains.” (The notion being that reclaiming the commons via tax and transfer would in fact enable the privatization of public lands.) Finally, it would prevent revolutions. Paine noted that inequality in Europe was rampant, and that the consciousness of this, and that it could not be maintained, “makes the

possessors [of property] dread every idea of a revolution.”⁴⁹ Although his vision for redistribution was universal, rather than benefiting the poor, Paine’s proposal ultimately aimed to secure the holdings of the propertied class, by keeping the poor from wretchedness and revolt.

Although they do not appear to have discussed these proposals in their many letters, Jefferson and Paine developed alternative visions of how the commons might be reclaimed, in order to remedy the social problems and injustices resulting from enclosure. Traces of these visions remain with us in contemporary debates over social policy, land use, and redistribution. On the one hand, one can turn to property law, and recognize that the poor have a right to use and benefit from land. Or, one can look to tax law, and create a levy that transfers some of land’s value to others.

The Land Fix as Allotments

From the late 1700s through the 1800s, European social reformers imagined how, in the face of social problems understood to be the product of enclosure and private property, the poor and unemployed might regain access to land, or at least to some of its economic value. Their initial focus was on the rural poor who had been excluded from enclosure. But as rural workers moved to cities, reformers also came to envision how such schemes could assist the urban poor.

In England, these reforms played out in the context of the Old Poor Law. We might think of projects to reclaim the commons—whether by giving the unemployed access to land, or through tax and transfer—as efforts at proto-welfare reform. For conservatives, the poor law system levied taxes on property owners that were too high, particularly considering that, from their perspective, rather than helping the poor it instead produced dependency and indolence. Projects that would require the poor to produce their own subsistence by farming otherwise

unused land offered an attractive alternative. It might allow taxes to be cut, and improve the morals of the poor. For their part, liberal and radical critics of the poor law system believed it did too little to address poverty, while heaping shame on people who were in poverty through no fault of their own. From this perspective, projects to reclaim the commons appeared to be ways to achieve equality and social justice.⁵⁰

In England, one early reform proposal aimed to let poor families farm waste lands. In 1800, the famed agrarian expert Arthur Young toured the English countryside, searching for responses to the social problems produced by enclosure. The next year, Young published *An Inquiry into the Propriety of Applying Wastes to the Better Maintenance and Support of the Poor*.⁵¹ The report, presented to Parliament, envisioned a system in which families that were dependent on support from parishes would instead receive access to waste lands. The proposal was not a radical reclaiming of common lands in the manner of the Diggers. Young, a conservative, harbored no dreams of a world without landlords, laborers, or property. To the contrary, he concluded after observing the French revolution that “no society can, or ever did, exist without the distinctions of rich and poor. Equality is a romantic phantom of the imagination, never realized.”⁵² Nevertheless, he did hope to give the poor rights to use waste lands, which at the time referred to land “not cultivated or used for any purpose, and producing little or no herbage or wood,” and that was “not in any man’s occupation, but lying common.”⁵³

Allowing the poor to claim and use such lands, Young suggested, would solve three problems. First, it would help people dispossessed by enclosure, by giving them a place to live and grow their own food. Young’s survey of England found that enclosure hurt commoners in 19 out of 20 cases; there was plenty of need. Second, his plan would let parishes cut the rate of taxes that they collected from landowners to support the poor. This fit more closely with Jefferson’s

vision than Paine's, which would have raised taxes on property owners. Finally, Young reasoned that managing land would make the poor more frugal and productive. Although Young and Paine drew very different lessons from the French Revolution, Young also cited a "more powerful motive" for his inquiry—the threat that "religion, liberty, and independence will not long survive" if England failed to address the social problems of its poor.⁵⁴

Young proposed that the unemployed poor have access to wastes on something more than an emergency basis. If they were granted a few acres as an allotment, this would spur them to be productive and support themselves. But there was a catch. The family would not own the land outright. Title would remain with the parish. So long as the father and the rest of the family never again became dependent on support from the parish, they could continue to use the parcel.⁵⁵ As Young saw it, this condition should run with the property, applying to a widow or children who might later inherit it. If they again became dependent on the parish rolls, the land would revert to the parish. Leaders of the parish could then choose to let the widow or children to remain on the land, or remove them and give over use of the land to another family.

Young's proposal was never taken up by Parliament. Yet from the 1790s through the early decades of the 1800s he remained a leader in pushing for access to land as a means of supporting the poor.⁵⁶ He continued to advocate for this form of social policy as editor of the *Annals of Agriculture*, and secretary of the Board of Agriculture. The Society for Bettering the Condition and Increasing the Comforts of the Poor also championed land access for the poor, again focusing on how it might increase their wellbeing and industriousness, and reduce taxes.⁵⁷

Although placing the poor on waste lands never became a core feature of social policy, allotment gardens did spread in Britain and on the continent throughout the 1800s. These projects provided working people and the poor with land on which they could grow food. In

Britain, where allotments had long been a feature of rural life, they were increasingly formalized in law. In 1908, an act gave cities the power to reserve land and rent it at below-market rates to urban workers who wanted to grow food.⁵⁸ Likewise in Germany, where allotment gardens dated back to the middle ages, they were adopted as a means of relief to the urban poor during the last few decades of the 1800s.⁵⁹ Workers' gardens also sprouted up in France as part of Catholic social programs during the 1890s.⁶⁰ Across Europe, allotments were the realization of a reformist vision of access to land as a way to address the social effects of eliminating rights to the commons, together with increasing industrialization and urbanization. Others, meanwhile, were developing more radical visions.

The Land Fix and Urban Revolution

In the late 1800s, Peter Kropotkin, the anarchist Russian prince, was living in exile in western Europe. He was fascinated by the potential of the Paris Commune of 1871, and by its failure to achieve an ongoing urban revolution.⁶¹ What would be needed for a future urban revolution to succeed? In seeking to answer this question, Kropotkin focused on new agricultural techniques, and the legal rules that supported them.

Kropotkin had observed intensive vegetable gardening techniques on the outskirts of Paris and during his trips to Belgium. Innovations in season extension and soil fertility facilitated incredible productivity. Kropotkin was excited about how they might allow a city to feed itself. Particular forms of land tenure, he realized, made this productivity possible. The market gardens outside Paris, for example, relied on a system of leasing that allowed farmers to cart their soil from one plot to the next, thereby encouraging investment in soil fertility.⁶²

Drawing on these observations, Kropotkin envisioned a radical new way to organize urban space and labor. Rather than remaining at just one place of employment, workers could instead split their time and effort between fields, factories, and workshops. For many workers in Europe, Kropotkin noted, this was already the case. They did some work in industry, while maintaining seasonal connections to the land. Many British workers in small trades, for instance, also maintained a garden or some rights of pasture on the commons.⁶³

This division of labor struck Kropotkin as both a more humane way of living, and a way to maintain urban revolutions. “Every time we speak of revolution,” he wrote in *The Conquest of Bread*, “the face of the worker who has seen children wanting food darkens and he asks—’What of bread? ... What if the peasants, ignorant tools of reaction, starve our towns... what shall we do?’” To this, Kropotkin replied: “Let them do their worst! The large cities will have to do without them.”⁶⁴

The Conquest of Bread concludes with a proposal to scale up intensive urban agriculture. Kropotkin meticulously tallied the number of acres around Paris that would need to be devoted to various types of crops in order to provide enough food to feed the city. By relying on greenhouse and soil fertility techniques already in use, he concluded that it was well within reach for Paris to feed itself. If half of its able-bodied workers put in five hours in the cities’ fields, for 58 days each year, it could be done.⁶⁵ Although Kropotkin never had a chance to realize his vision in Paris, he would eventually come to support experimental farms for unemployed workers outside of London. And, as we will see in the next chapter, his vision may have helped to inspire garden programs at the Hull House social settlement in Chicago.

Henry George's Tax Fix

The late 1800s also saw the revival and popularization of Paine's vision for a tax on land values. In 1869, the American social thinker and reformer published *Progress and Poverty*, which became a bestseller. The book argued that a land-value tax could address rampant inequality and unemployment, which George saw as the results of concentrated private land ownership.⁶⁶ "The only remedy for the unjust distribution of wealth," George contended, "is in making land common property."⁶⁷ Like Paine, he argued that this could be done without confiscating land. Instead, simply by confiscating rent, "we may, without jar or shock, assert the common right to land by taking rent for public uses."⁶⁸ George did not cite Paine as inspiration, but the link is unmistakable. Historian Harvey Kaye has described George's vision as "descended directly from *Agrarian Justice*."⁶⁹

A land value tax, George contended, would vindicate the historical tendency of land to be held in common. Surveying the history of land ownership, George noted "the universality and long persistence of the recognition of the common right to the use of the soil."⁷⁰ Although private property had come to seem the normal way to hold land, he argued that it had "nowhere grown up save as the result of usurpation." The historical rule was in fact common ownership: "common right to land has everywhere been primarily recognized."⁷¹

In building an argument for the land value tax, George cited a litany of problems created by private property. To explain how it can block access to nature and soil, he described a hypothetical agricultural strike. Farm workers demand higher wages, and so farmers demand lower rents from landowners. "If cultivation thus come to dead-lock," he surmised, "the land owners would lose only their rent, while the land improved by lying fallow. But the laborers would starve."⁷² While landowners could live off their savings, laborers would have to choose

between starving and emigrating. In this way, land ownership becomes tantamount to slavery. “When starvation is the alternative to the use of land, then does the ownership of men involved in the ownership of land become absolute.”⁷³ The argument might easily have led to a proposal that farm workers should have a right to use land. Instead, George focused on how a land value tax could restrict possibilities for speculation. By denying owners the ability to profit from land without putting it to use, the tax would compel them to use land productively. It mattered less to George whether this productive use was housing, factories, or farms. The important thing was that land would be used, people employed, and tax revenues collected to further address inequality.

Further Experiments with the Land Fix

By the beginning of the twentieth century, social reformers were experimenting with projects that wove together different visions for reclaiming the commons and activating unused land. These ranged widely, from projects to develop utopian suburbs in England to farms and gardens for unemployed workers on both sides of the Atlantic. In these projects, reformers adapted and intertwined the visions laid out by George, Kropotkin, and earlier thinkers.

The thinking of both Kropotkin and George helped inspire to the radical English landscape planner Ebenezer Howard.⁷⁴ In *Garden Cities of Tomorrow*, Howard proposed a new type of town that would balance rural and urban ways of life by integrating agriculture and industry.⁷⁵ His vision provided space for allotment gardens that could be used by workers in small industries, as well as for intensive farms that to be managed by full-time farmers. A municipal trust would hold all the land, and receive payments equivalent to the incremental increase in ground rents as land became more valuable. Compared to prior reformers, Howard

had more success in turning his vision into reality; Letchworth Garden City, north of London, was built according to his model.

George and Kropotkin also inspired people who set up farms for unemployed workers in the U.S. and England. In the wake of the Panic of 1893, Detroit mayor Hazen Pingree, an admirer of George and himself an advocate for the land value tax,⁷⁶ created a municipal program to get private land donated so that unemployed workers could grow gardens. Like Arthur Young, Pingree argued that this program would reduce the tax burden on the city's elite.⁷⁷ He convinced landowners to make available 430 acres of land, then ensured it would be used by ordering the poor commission to strike from its rolls the names of anyone who received aid but did not apply for a garden. Urban reformers from around the U.S. took note, and similar programs soon blossomed in other cities. As we will see in the next chapter, Pingree's potato patches inspired Chicago's reformers and civic leaders to create similar projects.

In Philadelphia, Joseph Fels helped to found the Philadelphia Vacant Lots Cultivation Association. Fels was a soap magnate, made wealthy by the success of Fels-Naptha soap. As a philanthropist, he became a major supporter of organizations that advocated for George's land value tax. He was also taken by the idea of putting the unemployed to work on unused land. After moving to London to open a new market for his soap, he founded two experimental farms for the unemployed in the English countryside.

During his time in England, Fels became an acquaintance of Kropotkin. The progressive soap magnate and the anarchist prince shared an interest in seeing how industrial workers could be employed part time on farms. Kropotkin eventually wrote the preface to a book on how French gardening methods had been adapted at Fels' farms.⁷⁸ As in his own books, Kropotkin praised the efficiency of the intensive growing techniques. He went on to predict that progress on

projects like Fels' farm "will necessarily contribute to the development in civilised mankind of the idea that the land belongs to all, and that nobody has the right to appropriate more of it than he, with his family, can cultivate."⁷⁹ One imagines that John Locke might have smiled at hearing Kropotkin echo the notion that surplus land should revert to the commons.

Reclaiming the Commons through Land and Taxation

What can be gleaned from a look back at how people have tried to reclaim the commons? First, tracing the long roots of this social practice reveals how it has changed over time. While the enclosure movement was still underway, reclaiming the commons usually entailed what today we might call direct action. By knocking down hedgerows and fences, commoners sought to vindicate the customary rights that had long been accepted where they lived. Acts of enclosure threatened those rights, and these actions sought to reassert them as the local law of the land.

But at some point, what it meant to reclaim the commons changed. Since at least the time of the Diggers, visions for reclaiming the commons moved in new and more creative directions. Instead of acting to reclaim the original institutions and social practices of the commons, social thinkers and reformers began to envision and enact new ways of redistributing land and its value. If much of the original commons had been enclosed, perhaps something new might be claimed.⁸⁰ Reclaiming the commons became a project of institutional imagination and experimentation, more so than of direct action.⁸¹

These visions and experiments were of two basic types. The first we might call the *tax fix*: projects to use tax and transfer to redistribute some of the value of land, using the resulting revenues to fund social welfare programs. The tax fix is the legacy of Thomas Paine and Henry George. Over time, reformers have expanded upon its basic logic of redistribution via tax and

transfer. Many forms of wealth other than the value of land can be taxed: from improvements built on land, to inheritances, to financial holdings.

Reformers have also used the tax fix to create a wide range of benefits, which extend far beyond what Paine and George imagined. Perhaps the most direct descendant of the tax fix is social security; the Social Security Administration even offers a copy of *Agrarian Justice* on its website.⁸² Stakeholder funds, such as the Alaska Permanent Fund, are also closely related. But the basic logic of the tax fix also funds much of what has come to be known as the welfare state, and the benefits it provides. These benefits may be universal, or targeted to particular groups. They may result in cash transfers, in-kind provision such as school meals, or even income paid to participants in government job programs. In the U.S., tax revenue has increasingly been directed to nonprofit organizations, which provide services such as job training or child care to qualified beneficiaries.⁸³ And in the U.S. and the U.K., proponents of asset-based welfare have experimented with using revenues to subsidize financial savings by beneficiaries.⁸⁴ The tax fix, along with the types of programs that result and some examples, is summarized in the following table.

**TABLE 1.
TWO FIXES**

	Mode of Redistribution	Results of Redistribution	Examples
Tax Fix	Tax & Transfer	<i>Income Supports:</i> Tax revenues transferred as cash benefits, in-kind benefits, or income.	AFDC, TANF, SNAP, school meals, WPA job programs for unemployed
		<i>Social Services:</i> Tax revenues fund services for beneficiaries	childcare, job training, counseling
		<i>Asset-Building:</i> Tax revenues subsidize assets owned by beneficiaries	individual development accounts
Property Fix	Reallocating property rights	<i>Land Reform:</i> Permanent transfer of the full “bundle of sticks” to new landowners	agrarian land reform, formalizing squatters’ rights
		<i>Land Fix:</i> Splitting the “bundle of sticks” and temporarily transferring the rights to use and benefit from land	use of vacant land for food production

The second form of reclaiming the commons is the *property fix*. Its roots run at least as deep as the tax fix, arguably stretching all the way back to the Diggers’ direct actions to reassert customary rights. The two fixes have a similar goal: to provide resources in support of the needy. But they achieve redistribution by very different means. Rather than taxing the value of a resource and transferring the resulting revenue, the property fix involves reallocating property rights to the resource itself.

As the history of efforts to reclaim the commons reveals, reformers have for centuries envisioned and advocated for projects that reallocate property rights to one resource in particular: land. Of course, it is also possible to reallocate property rights to other types of resources. I return to this question in the conclusion, which explores how our understanding of the property

fix as applied to land could help explain how and why people have pursued similar redistributive strategies for other resources. The bulk of this study, and the chapters that follow, focus on how and why people have pursued projects to redistribute the right to use land.

The property fix itself takes two basic forms when the resource to be redistributed is land. One, land reform, is more well known. If we understand property as a bundle of rights, which may be divided and split in various ways, land reform typically transfers the full bundle to a new owner.⁸⁵ Particularly in the global south, land reform has been used to redistribute ownership of rural land, whether as a result of social movement pressure or state-led agrarian reform.⁸⁶ In urban settings, land reform has granted title to people living in informal settlements.⁸⁷

This study examines a second type of property fix, which I term the *land fix*.⁸⁸ Like land reform, the land fix redistributes by reallocating property rights. The land fix, however, transfers a more limited set of rights. Typically, these include the rights to access, use, and benefit from land. Whereas land reform often grants property rights that may be held on an ongoing basis, the land fix often bestows beneficiaries with rights that may be enjoyed for only a limited period of time, such as during one growing season.

How does the land fix come about? What informs how it operates, and whether it becomes entrenched as a lasting institution, or disappears after a brief period? When it comes to the more familiar forms of social policy—income supports and social services—social scientists who study the welfare state have developed theories that offer answers for these types of questions. One strategy for understanding the dynamics of the land fix, then, is by asking whether the explanations provided by those theories apply to the case of land use as social policy.

What accounts for the emergence, form, and entrenchment of social policy? Sociologists have described the creation of a welfare state, and its relative scope, as a function of the types of pressure exerted against the state by social movements, labor movements, and reformers seeking disaster relief.⁸⁹ To understand why, once created, social policies often become entrenched, they have described mechanisms by which policies can “ratchet up,” or create feedbacks that reshape the terrain of political contention, thereby reinforcing their institutionalization.⁹⁰ For their part, scholars interested in the shift of the welfare state toward social services provided by community-based organizations have identified a slightly different mechanism. As these organizations take on the role of brokering access to resources, they also mobilize beneficiaries as political constituents, lobbying the state for ever-increased funding.⁹¹ Less has been done to explain the entrenchment of asset-based welfare—perhaps because it is simply less entrenched. But its proponents have offered explanations of how the “asset effects” of ownership generate value that is not only economic, but also increases beneficiaries’ self-sufficiency and well-being.⁹²

As we ask how and why the land fix has both periodically emerged and repeatedly disappeared as a form of social policy in a modern American city, these theories offer places to look. Perhaps projects to grant the needy rights to use land have failed to become entrenched because they have not benefited from pressure by social movements or labor unions. Or perhaps they have not generated the sort of positive feedback effects that have made other types of entitlements difficult to retract. Maybe the organizations that broker land access rights have failed to mobilize beneficiaries to lobby for continued access. Or, perhaps it is difficult for proponents to convincingly demonstrate the economic and non-economic value created by reallocating the right to use land.

It is also possible, however, that the land fix differs in important ways from the tax fix. The mechanisms involved in bringing it about, after all, are different than those involved in the emergence of other forms of social policy. Advocates of cash benefits, for example, face the challenge of devising, justifying, mobilizing for, passing, and then defending legislative projects to tax and transfer income or wealth. Promoters of the land fix face a different puzzle. How can they repackage the bundle of property rights in a way that permits the needy to use idle resources? This often involves solving a matching problem, to pair available resources and potential users.⁹³

Promoters of the land fix, like providers of social services, broker access to resources.⁹⁴ But rather than determine who may gain to access social services, they broker exchanges between owners of idle land and potential users. To an economist this might look like a project to reduce inefficiency.⁹⁵ And it is. But it is also a puzzle that implicates equity. Can owners be convinced, or pressured, to concede a “basic feature” of private property—their right to exclude others?⁹⁶ Reformers often begin by convincing owners to grant beneficiaries the right to access and use a parcel on a temporary basis, with users agreeing that owners may at any time revoke such a license. Explaining their success or failure in converting temporary legal and moral claims into something more durable returns us to the questions posed above concerning movement pressure, ratcheting, and policy feedbacks. Rather than understand these as things that happen vis-à-vis the state, we could instead ask how they influence brokering use rights to land, which may be held by the state, firms, or private individuals.

Explaining the emergence and disappearance of the land fix involves understanding it both as a form of social policy and as an urban institution. This leads to another set of sociological questions, guided by urban sociologists’ enduring fascination with struggles over

urban land use. One abiding concern involves how conflicts between land's use value and its exchange value define the political economy of our cities.⁹⁷ How have projects to bring about a land fix in the form of urban farms and gardens intervened in these broader conflicts? As organizations advocating for this form of redistribution have tinkered with the rules that govern land use, how might they have adapted their own legal environments—and those of the city itself?⁹⁸ In the next chapter, for example, I suggest that some reformers have acted as “norm entrepreneurs” by claiming that property owners owe a social obligation to the needy,⁹⁹ and have used this to advocate for new urban property rules.

The distribution of material resources is central to this story, but projects to provide a land fix are also efforts to reshape urban aesthetics and morals. Indeed, as the economist and legal scholar Ronald Coase observed, “the choice between different social arrangements” implicates more than just economic value, and forces people to grapple with the fact that “problems of welfare economics must ultimately dissolve into a study of aesthetics and morals.”¹⁰⁰ It is important to ask, then, how the effort to reallocate access to land involves more than just increasing productivity or efficiency. As they push new norms and rules for distributing land use, how do reformers claim “use effects” akin to the “asset effects” claimed promoters of asset-based welfare?¹⁰¹ The aspirations of these reformers to bring about new urban property institutions¹⁰² are often part of a broader vision for reshaping what it means to live and labor in the city.

The chapters that follow trace the repeated rise and fall—and possible rise again—of the land fix as an urban institution in Chicago. The argument is that this mode of redistributing resources and providing for the welfare of the needy is not extinct: the land fix is not simply a European relic, or a social policy path not taken. Instead, it is a form of redistribution that has

inspired repeated and ongoing experimentation with the institutions of a major American city. The next two chapters explore social reformers and municipal officials' experiments with the land fix during the Progressive Era and the Great Depression. Later chapters examine the visions, institutions, and tensions that are emerging as Chicago's contemporary reformers once again experiment with this longstanding form of social policy.

Notes

1. “Our Club,” St. George’s Hill Golf Club, <http://www.stgeorghillgolfclub.co.uk/club/>.
2. Peter Linebaugh, *The Magna Carta Manifesto* (Berkeley: University of California Press, 2008), 280.
3. Nathan McClintock, “Why farm the city? Theorizing urban agriculture through a lens of metabolic rift,” *Cambridge Journal of Regions, Economy and Society* 3 (2010): 200.
4. David Harvey, *Rebel Cities: From the Right to the City to the Urban Revolution*. (London: Verso, 2012), 73-74. Paul Chatterton, “Seeking the urban common: Furthering the debate on spatial justice,” *City: analysis of urban trends, culture, theory, policy, action* 14 (2010): 627. Alexander Follmann and Valérie Viehoff, “A green garden on red clay: creating a new urban common as a form of political gardening in Cologne, Germany.” *Local Environment* 2014: 4.
5. Sheila Foster and Christian Iaione, “The City as a Commons,” *Yale Law and Policy Review* 34, no. 2 (2016): 281-349.
6. Lindsay Campbell and Anne Weisen, *Restorative Commons: Creating Health and Well-being through Urban Landscapes*. (USDA National Forest Service General Technical Report NRS-P-39, 2009).
7. Johan Colding and Stephan Barthel, “The potential of ‘Urban Green Commons’ in the resilience building of cities.” *Ecological Economics* 86 (2013): 156–166. Johan Colding et al., “Urban green commons: Insights on urban common property systems.” *Global Environmental Change* 23 (2013): 1039–1051.
8. Erika Allen (Chicago Projects Director, Growing Power), remarks presented at The Rooting Symposium, Chicago, IL, October 13, 2013.
9. Elinor Ostrom, *Governing the Commons: The Evolution of Institutions for Collective Action* (Cambridge, UK: Cambridge University Press, 1990); Elinor Ostrom, *Understanding Institutional Diversity* (Princeton: Princeton University Press, 2005).
10. Sheila Foster and Christian Iaione, “Ostrom in the City: Design Principles for the Urban Commons,” *The Nature of Cities*, August 20, 2017, http://www.chicagomanualofstyle.org/tools_citationguide/citation-guide-1.html.
11. Efrat Eizenberg, “Actually Existing Commons: Three Moments of Space of Community Gardens in New York City,” *Antipode* 44 (2011): 765.
12. David Bollier, *Think Like a Commoner* (Gabriola Island, BC: New Society, 2014), 48.
13. *Ibid.*, 16, 51. The way Bollier aims to think about vernacular law and the commons—as a situation of slippage between law in action and law on the books—has long been familiar to legal realists. Karl Llewellyn, “A Realistic Jurisprudence—the Next Step,” *Columbia Law Review* 30 no. 4 (April 1930): 431-65.
14. Laura Lawson and Abbilyn Miller, “Community Gardens and Urban Agriculture as Antithesis to Abandonment: Exploring a Citizenship-Land Model,” in *The City After Abandonment*, ed. Margaret Dewar and June Manning Thomas (Philadelphia: University of Pennsylvania Press, 2013), 37.
15. Brian Donahue, *Reclaiming the Commons: Community Farms and Forests in a New England Town* (New Haven: Yale University Press, 2001).
16. Nicholas Blomley, “Enclosure, Common Right and the Property of the Poor,” *Social & Legal Studies* 17 (2008), 311-331; Michael Hardt and Antonio Negri, *Commonwealth* (Cambridge, MA: Harvard University Press, 2009), 153; Foster and Iaione, “The City as a Commons.”
17. Thomas More, *Utopia* (New Haven: Yale University Press, 2001), 22-24.
18. E.P. Thompson, *Customs in Common* (New York: Penguin Press, 1991), 102.
19. *Ibid.* 178-79.

-
20. Ibid., 117
 21. John E. Martin, *Feudalism to Capitalism: Peasant and Landlord in English Agrarian Development* (Atlantic Highlands, NJ: Humanities Press, 1983), 164-68.
 22. Usufruct rights sometimes overlapped with open field systems of farming, but the farming itself was not understood as part of the commons.
 23. Gerrard Winstanley et al., *The True Levellers Standard Advanced* (London, 1649).
<http://diggers.org/diggers/tlsa.htm>
 24. Ibid., 6.
 25. Ibid., 7.
 26. Ibid., 13.
 27. Beyond the Ten Commandments, the Old Testament includes other commandments to share the fruits of property. Passages in Leviticus (19:9-10) and Deuteronomy (24:19) instruct farmers not to harvest the corners of their fields, to allow gleaning by the poor. Joseph Singer, *The Edges of the Field: Lessons on the Obligations of Ownership* (Boston: Beacon Press, 2001). William Blackstone read such “Mosaical law” as the basis for English common law and custom that treated gleaning by the poor as a justifiable trespass. William Blackstone, *Commentaries on the Laws of England* (Philadelphia: Birch and Small, 1803), Book III, chapter 12, 212.
 28. Winstanley et al., *True Levellers Standard Advanced*, 15.
 29. Ibid., 16.
 30. Ibid., 17.
 31. Ibid., 18.
 32. Ibid.
 33. Ibid., 15.
 34. Richard Ashcraft, *Revolutionary Politics and Locke’s Two Treatises of Government* (Princeton: Princeton University Press, 1986).
 35. John Locke, *Second Treatise of Government* ed. C.B. Macpherson (Indianapolis: Hackett, [1690] 1980).
 36. Ibid., Ch. V sec. 34.
 37. Robert Nozick, *Anarchy, State, and Utopia* (New York: Basic Books, 1974), 175.
 38. Locke, *Second Treatise*, Ch. V sec. 33.
 39. Ibid. Ch. V sec. 31.
 40. Ibid., Ch. V. sec 27.
 41. Of course, other thinkers came in between. Rousseau, in his search for the origins of inequality, cited enclosure and private property as the cause of “many misfortunes and horrors,” asking how things might’ve been better if people had “pull[ed] up the stakes” and realized that “you are lost, if you forget that the fruits of the earth belong equally to us all, and the earth itself to nobody!” Jean-Jacques Rousseau, “The Second Discourse: Discourse on the Origin and Foundations of Inequality Among Mankind,” in *The Social Contract and the First and Second Discourses*, ed. S. Dunn (New Haven, CT: Yale University Press, [1755] 2002), 113. Thomas Spence and William Ogilvie, for their part, wrote proposals for land reform that slightly predate Jefferson and Paine, and go into greater depth. Thomas Spence, “The Real Rights of Man,” in *The Pioneers of Land Reform: Thomas Spence, William Ogilvie, Thomas Paine* (London: G. Bell and Sons, 1920 [1775]), 1-34; William Ogilvie, “An Essay on the Right of Property in Land,” in *The Pioneers of Land Reform: Thomas Spence, William Ogilvie, Thomas Paine* (London: G. Bell and Sons 1920 [1781]), 35-180. Here I focus on Jefferson and Paine because their writings succinctly state two contrasting imaginations of how the commons might be reclaimed.

-
42. Thomas Jefferson, Letter to James Madison, October 28, 1785, in *The Founders' Constitution*, ed. Philip B. Kurland and Ralph Lerner (Chicago: University of Chicago Press [1785] 1986). <http://press-pubs.uchicago.edu/founders/documents/v1ch15s32.html>.
 43. Thomas Paine, "Agrarian Justice," in *The Pioneers of Land Reform: Thomas Spence, William Ogilvie, Thomas Paine* (London: G. Bell and Sons 1920 [1797]), 176-206.
 44. *Ibid.*, 199.
 45. *Ibid.*, 184-85.
 46. *Ibid.*, 183.
 47. *Ibid.*, 187.
 48. *Ibid.*, 197.
 49. *Ibid.*, 201.
 50. I am grateful to an anonymous reviewer for stressing the relationship between these projects and the Old Poor Law system.
 51. Arthur Young, *An Inquiry into the Propriety of Applying Wastes to the Better Maintenance and Support of the Poor* (Angel Hill: J. Rackham, 1801).
 52. Arthur Young. 1798. *An Inquiry into the State of the Public Mind Amongst the Lower Classes: And on the Means of Turning it to the Welfare of the State* (Dublin: J. Moore, 1798), 6.
 53. "waste, n.". OED Online. March 2016. Oxford University Press. <http://www.oed.com/view/Entry/226027?rskey=QAD8yV&result=1> (accessed May 04, 2016).
 54. Young, *Inquiry into the Propriety of Applying Wastes*, 160.
 55. *Ibid.*, 39.
 56. Jeremy Burchardt, *The Allotment Movement in England, 1793-1873* (London: The Royal Historical Society, 2002).
 57. *Ibid.*, 16.
 58. The Small Holdings and Allotments Act of 1908, gave local councils the power to acquire land compulsorily in order to meet demand for allotments, in cases when working people were not able to rent allotments through voluntary arrangements and the council was unable to purchase or lease land by other means. "Small Holdings and Allotments Act 1908," <http://allotmentresources.org/library/policy/small-holdings-allotments-act-1908-2/>
 59. Micheline Nilsen, *The Working Man's Green Space: Allotment Gardens in England, France, and Germany, 1870-1919*. (Charlottesville: University of Virginia Press, 2014), 64. Like England, nineteenth-century Germany had also seen the elimination of traditional rights to the commons. When the young Karl Marx denounced German laws prohibiting the theft of wood, he envisioned customary rights to the commons not as rooted in God's gift of the earth, but rather by analogy of the place of the poor in the body politic. Because they were akin to downed wood, they should retain their right to collect it from the forests. Karl Marx, "Proceedings of the Sixth Rhine Province Assembly. Third Article. Debates on the Law on Thefts of Wood," in *Karl Marx and Frederick Engels: Collected Works*, vol. 1. (New York: International Publishers, [1842] 1975).
 60. Nilsen, *Working Man's Green Space*, 101.
 61. Peter Kropotkin, *The Paris Commune*. Freedom Pamphlets no. 2. (London: W. Reeves. [1880] 1895). <https://www.marxists.org/reference/archive/kropotkin-peter/1880/paris-commune.htm>
 62. Pëtr Kropotkin, *Fields, Factories and Workshops: or Industry Combined with Agriculture and Brain Work with Manual Work*. (London: Thomas Nelson & Sons, [1898] 1912), 126.
 63. *Ibid.*, 245.
 64. Pëtr Kropotkin, *The Conquest of Bread* (New York: G.P. Putnam's Sons, [1892] 1907), 275.
 65. *Ibid.*, 280-81.

-
66. Henry George, *Progress and Poverty*, (New York: Modern Library [1879] 1929).
 67. *Ibid.*, 329.
 68. *Ibid.*, 405.
 69. Harvey J. Kaye, *Thomas Paine and the Promise of America*. New York: Hill and Wang, 2006), 169.
 70. George, *Progress and Poverty*, 379.
 71. *Ibid.*, 369.
 72. *Ibid.*, 314.
 73. *Ibid.*, 347.
 74. Ebenezer Howard, *Garden Cities of To-morrow*. (London: Swan Sonnenschein & Co., 1902) 31 note 2, 123-123.
 75. *Ibid.*
 76. “A Republican Single-Taxer Who Has a Monument.” *Single Tax Review* 22, no. 2 (March-April 1922): 36.
 77. Joseph Stanhope Cialdella, “A Landscape of Ruin and Repair: Parks, Potatoes, and Detroit’s Environmental Past, 1879–1900,” *Michigan Historical Review* 40, no. 1 (2014): 62-63.
 78. Arthur Power Dudden, *Joseph Fels and the Single-Tax Movement* (Philadelphia: Temple University Press, 1971).
 79. Petr Kropotkin, “Preface,” in Thomas Smith, *French Gardening* (London: Joseph Fels and Utopia Press, 1909), x.
 80. By 1850, after the age of Parliamentary enclosure, most of England’s commons and waste lands had been enclosed, with limited exceptions. Thompson, *Customs in Common*, 121.
 81. There remains, to be sure, a tradition of direct action to reclaim land that connects with the methods and tactics used by the Diggers. In Brazil, the Movement of Landless Rural Workers (*Movimento dos Trabalhadores Rurais Sem Terra*, or MST) has invaded and reclaimed underutilized ranch lands, in a strategy that has advocated both for the social function of property and for principle that land use should produce collective benefits. Peter P. Houtzager, “The Movement of the Landless (MST), Juridical Field, and Legal Change in Brazil,” in *Law and Globalization from Below: Towards a Cosmopolitan Legality*, ed. Boaventura de Souza Santos and César A. Rodríguez-Garavito, (Cambridge, UK: Cambridge University Press, 2005), 218-240; Hannah Wittman, “Reframing Agrarian Citizenship: Land, Life, and Power in Brazil,” *Journal of Rural Studies* 25 (2009): 125.
 82. Paine’s pamphlet is available for download, along with the note that it “may not reflect current policies or procedures.” <https://www.ssa.gov/history/tpaine3.html>
 83. Steven Smith and Michael Lipsky, *Nonprofits for Hire: The Welfare State in the Age of Contracting* (Cambridge, MA: Harvard University Press, 1995); Lester M. Salamon, *Partners in Public Service: Government-Nonprofit Relations in the Modern Welfare State* (Baltimore, MD: Johns Hopkins University Press, 1995).
 84. Michael Sherraden, *Assets and the Poor: A New American Welfare Policy* (Armonk, NY: M. E. Sharpe, 1991); Bruce Ackerman and Anne Alstott, *The Stakeholder Society* (New Haven, CT: Yale University Press, 2000).
 85. The notion that property is a bundle of sticks, or a bundle of rights, is an old one. John R. Commons, *The Distribution of Wealth* (New York: MacMillan, 1893), 92. It was introduced and has been championed by progressive legal scholars who see repackaging the bundle of sticks as a way to ensure that property law reflects “considered judgments about the legitimate contours of the social order.” Joseph William Singer, “Property as the Law of Democracy,” *Duke Law Journal* 63 (2014): 1287. More conservative property law scholars have argued that certain rights, such as the right to exclude, are central to the architecture of property, since they reduce information costs. Henry E. Smith, “Property as the Law of Things,” *Harvard Law Review* 125 (2012): 1691.
 86. Wendy Wolford, “Land Reform in the Time of Neoliberalism: A Many-Splendored Thing,” *Antipode* 39, no. 3 (2007): 550-70.

-
87. Hernando de Soto, *The Mystery of Capital* (London: Bantam, 2000).
88. For certain readers, “the land fix” will call to mind David Harvey’s elaboration of the concept of “the spatial fix.” Harvey proposed that the spatial fix, “understood as geographical expansions and restructuring” can provide “a temporary solution to crises... understood in terms of the overaccumulation of capital.” David Harvey, *Limits to Capital* (London: Verso, 2006), xviii. As will become clear in the chapters that follow, the land fix might also provide a temporary means of supporting what Marx termed the “reserve army of labor” or “surplus laboring population,” especially during periods of economic crisis and stagnation. Karl Marx, *Capital* vol. 1, in *Marx/Engels Collected Works*, vol. 35 (London: Lawrence & Wishart [1867] 1996), 623-634.
89. Frances Fox Piven and Richard A. Cloward, *Poor People’s Movements: Why They Succeed, How they Fail* (New York: Vintage Books, 1977); Gosta Esping-Anderson, *The Three Worlds of Welfare Capitalism*. (Princeton, NJ: Princeton University Press, 1990); Michele Landis Dauber *The Sympathetic State* (Chicago, IL: University of Chicago Press, 2013).
90. Evelyn Huber and John D. Stephens, *Development and Crisis of the Welfare State: Parties and Policies in Global Markets* (Chicago: University of Chicago Press, 2001); Margaret Weir, Ann Shola Orloff, and Theda Skocpol, “Understanding American Social Politics,” in *The Politics of Social Policy in the United States*, ed. Margaret Weir, Ann Shola Orloff, and Theda Skocpol (Princeton: Princeton University Press, 1988).
91. Mario Luis Small, “Neighborhood Institutions as Resource Brokers: Childcare Centers, Interorganizational Ties, and Resource Access Among the Poor,” *Social Problems* 53, no. 2 (2006): 274-292; Nicole Marwell, “Privatizing the Welfare State: Nonprofit Community-Based Organizations as Political Actors,” *American Sociological Review* 69 (2004): 265-91; Scott W. Allard *Out of Reach* (New Haven, CT: Yale University Press, 2009).
92. John Bynner and Will Paxton, *The Asset-Effect* (London, UK: Institute for Public Policy Research, 2001); Esther Y. Cho, “The Effects of Assets on the Economic Well-Being of Women After Marital Disruption,” Center for Social Development Working Paper No. 99-6 (Saint Louis, MO: Center for Social Development, Washington University in Saint Louis, 1999); John Bynner and Sofia Despotidou, “The Effects of Assets on Life Chances” (London: Center for Longitudinal Studies, Institute for Education, 2001).
93. Economists routinely think about markets as a process of matching. E.g. Gabrielle Demange and David Gale, “The Strategy Structure of Two-Sided Matching Markets,” *Econometrica* 53, no. 4 (July 1985): 873-888. Sociologists have studied it in other domains, such as marriage. Dale T. Mortensen, “Matching: Finding a Partner for Life or Otherwise,” *American Journal of Sociology* 94 (Supplement, 1988): S215-S240.
94. Small, “Neighborhood Institutions.”
95. When a land fix lets people use land that had been laying fallow, it can appear like an improvement in Pareto efficiency—an increase to one person’s welfare (the gardener) that doesn’t subtract from that of others (the landowner). Richard A. Posner, *The Economic Analysis of Law*, ninth ed. (New York: Aspen, 2014), 14. But as we will see, owners’ views may differ as to whether ceding use-rights to their property negatively affects their interests.
96. The notion that the right to exclude is a basic feature of property—and indeed that property law has some features that are more basic than others—has been advocated by legal scholar Henry Smith, “Property as the Law of Things,” 1709. It is not without its critics. Joseph Singer, for example, has noted that “all rights—even the basic right to exclude—are limited by the rights of others and social interests.” Joseph Singer, “No Right to Exclude: Public Accommodations and Private Property,” *Northwestern University Law Review* 90, no. 4 (1996): 1450.
97. John Logan and Harvey Molotch, *Urban Fortunes: The Political Economy of Place* (Berkeley, CA: University of California Press, 1987).
98. Lauren B. Edelman and Mark C. Suchman, “The Legal Environments of Organizations,” *Annual Review of Sociology* 23 (1997): 479-515.
99. Cass R. Sunstein, “Social Norms and Social Roles,” *Columbia Law Review* 96, no. 4 (1996): 903-68; Gregory Alexander, “The Social-Obligation Norm in American Property Law,” *Cornell Law Review* 94 no. 4 (2009): 745-819.

-
100. Ronald H. Coase, "The Problem of Social Cost," *Journal of Law and Economics* 3 (1960): 43.
101. Bynner and Paxton, *The Asset Effect*.
102. Tim Bartley, "Institutional Emergence in an Era of Globalization: The Rise of Transnational Private Regulation of Labor and Environmental Conditions," *American Journal of Sociology* 113, no. 2 (2007): 297–351; Scott W. Allard and Mario L. Small, "Reconsidering the Urban Disadvantaged: The Role of Systems, Institutions, and Organizations," *ANNALS of the American Academy of Political and Social Science* 647 (2013): 6-20.